IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2278 OF 2004

Union of India and Ors. .....Petitioners

Versus

Jairaj N. Pokardasani ...
Respondent

Mr. Suresh Kumar for the Petitioners

Mr. P.P. Saxena for the Respondent.

CORAM: **DALVEER BHANDARI, C.J., &**
DR. D.Y. CHANDRACHUD, J.
DATE: DECEMBER 3, 2004.

P.C.

1. By the order dated 23rd September, 2003 passed by the Central Administrative Tribunal ('Tribunal', for short), the respondent was reinstated in service with effect from the date he reports to join duty. The learned counsel appearing for the petitioners fairly submits that if the amount paid by the respondent is refunded by him, then, he will

be reinstated in service, in pursuance of the order passed by the Tribunal. The learned counsel has placed on record details of the pensionary benefits paid to the respondent. This chart is signed by the Assistant General Manager (Legal & HRD), Government of India, which shows that the respondent was paid the following amounts:-

(a)	GPF	Rs. 12,518/-
(b)	Gratuity	Rs. 35,031/-
(c)	Commutation of Pension	Rs. 79,254/-
(d)	Encashment of leave	Rs. 3,096/-
(e)	Pension paid from the date of removal from service till date (i.e. 31.10.2004)	Rs.1,54,467/-
	Total	Rs.2,84,366/-

2. The pension paid to the respondent from the date of removal from service till 31st October, 2004 is Rs.1,54,467/-. The respondent cannot be asked to repay this amount, because even after compulsory retirement, he was entitled to certain amount of pension, and the amount paid to him during the period from the date of removal from service till 31st October, 2004 need not be refunded. Regarding amounts of (a) to (d), the respondent must deposit with the petitioners. The learned counsel appearing on behalf of the respondent submits that because of acute financial difficulty, the respondent is not in a position to deposit any money.

3. In this view of the matter, we direct the Union of India to deduct these amounts from the salary and allowances to be paid to the respondent. The Union of India, from the date of his reinstatement, may deduct 50% of the salary and allowances to be paid to the respondent, and the deduction shall continue till the entire amounts are received by the Union of India. It is also permitted to charge 9% interest for delay in payment of these amounts.

4. The petitioners would be entitled to get interest on the G.P.F. amount from the date when it was paid to the respondent.

5. The respondent undertakes to report for duty on 13th December, 2004, and the learned counsel for the petitioners submits that from that date, he will be reinstated in service.

6. The learned counsel appearing for the respondent submits that he has filed Contempt Petition No. 71 of 2004 in O.A. No. 652 of 2002 before the Tribunal. In view of our order, nothing further survives in the contempt petition, and the same is dismissed.

7. This petition is accordingly disposed of.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.